

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No. : 10/708,124 Confirmation No. 2123
Applicant : Susumu Noda, et al.
Filed : February 9, 2004
T.C./A.U. : 2883
Examiner : Jerry M. Blevins
Docket No. : 39.038
Customer No. : 29453

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

This constitutes an Information Disclosure Statement pursuant to 37 C.F.R. § 1.98. The attached documents listed on the accompanying Form PTO/SB/08 are being submitted to be placed in the file for the patent application identified above.

REMARKS

The two presently submitted references, Cite Nos. O1 and O2 as listed on Form PTO/SB/08, are not in English. These references were cited in a communication from the Japanese Patent Office in a counterpart Japanese application.

Concise Explanation of Relevance/Copy of Translation **Pursuant to 37 C.F.R. § 1.98(a)(3)**

As a concise explanation of the relevance of these presently submitted Japanese-language references, an English translation of the Japanese Patent Office communication in its entirety is submitted herewith. The JPO communication was in Japanese Pat. App. No. 2003-032473, the foreign patent application on the basis of

which priority is claimed in the present application. (A copy of the Japanese Patent Office communication in its entirety follows the English translation.)

In addition, English translations of the relevant portions of Cite Nos. O1 and O2 have been made available to Applicant's representative and are being submitted herewith, attached to the back of each reference.

Furthermore, as is clear from its English translation, the JPO communication also cites a third reference: Joon Huh, et al., *Journal of Applied Physics*, 15 July 2002, Vol. 92, No. 2, pp. 654-659. This reference is an article entitled "Non-degenerate monopole mode of single defect two-dimensional triangular photonic band-gap cavity," and was submitted in an IDS filed in this application on December 14, 2004, and considered by the Examiner on July 18, 2005. Accordingly, as this reference is cumulative to information already made of record, it is not being submitted herewith.

A Notice of Allowance was mailed in the instant case on May 30, 2006. As the date on which the JPO communication citing the presently submitted information issued was October 18, 2005, an attestation under 37 C.F.R. § 1.97(e) cannot be made.

Consequently, the present IDS cannot be submitted pursuant to 37 C.F.R. § 1.97(d), and thus it is understood that, pursuant to § 1.97(i), the presently submitted information will be placed in the file, but will not be considered by the Office.

Applicants request that the present (non-complying) IDS be so treated.

Respectfully submitted,

June 15, 2006

/James Judge/

James W. Judge
Registration No. 42,701

JUDGE & MURAKAMI IP ASSOCIATES
Dojima Building, 7th Floor
6-8 Nishitemma 2-Chome, Kita-ku
Osaka-shi 530-0047
JAPAN

Telephone: **305-938-7119**
Voicemail/Fax: **703-997-4565**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>				Complete if Known	
				Application Number	10/708,124
				Filing Date	February 9, 2004
				First Named Inventor	Susumu Noda
				Art Unit	2883
				Examiner Name	Jerry M. Blevins
Sheet	1	of	1	Attorney Docket Number	39.038

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	O1	M. Mochizuki, et al., "Extended Abstract (The 49th Spring Meeting, 2002)," The Japan Society of Applied Physics and Related Societies, 2002, pp. 1039.	✓
	O2	Y. Akahane, et al., "Extended Abstract (The 63rd Autumn Meeting, 2002)," The Japan Society of Applied Physics, 2002, pp. 915.	✓

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.